IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.1130/2000

Shankar Lal Sharma

Versus

State & Anr.

DATE OF ORDER :: 17/08/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Anoop Dhand, for petitioner
Mr. Arun Sharma, P.P.
Mr. Pankaj Sharma, for respondent No.2

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Instant petition is directed against the order of learned trial Judge dated 2nd December, 2000 whereby application filed by respondent u/s. 457 Cr.P.C. was allowed and he was handed over the possession of the vehicle in question bearing No.RJ-18C-2729.

Facts which give rise to the controversy raised in the instant petition, are that petitioner lodged a report on 10th October, 2000 at Police Station Kotwali, Fatehpur in which it was alleged that a Jeep bearing No.RJ-18C-2729 was purchased by him in the month of November, 1999 and a sum of Rs.1,55,000/- was paid to the registered owner Shri Govind Ram and an agreement was entered into, but it came to his notice that the said vehicle has been sold to another person i.e. respondent No.2. On the said report, Crime No.126/2000 was registered for offence u/ss.420 &

406 IPC and after investigation, a negative FR No.22 dated 28th March, 2001 was submitted by the Investigating Officer. During investigation, application was filed u/s.457 Cr.P.C. by petitioner as well as by respondents, but because of pending investigation, the Court did not consider appropriate to hand over the possession of the disputed vehicle to either of parties and accordingly, it was observed that after investigation, parties will be free to file fresh application for delivery of possession. Accordingly, after investigation made, respondents herein filed application u/s.457 Cr.P.C. for delivery of possession. Learned trial Judge after hearing the parties took note of the fact that registered owner of the vehicle Shri Govind Ram handed over the signed Form No.29 & 30 for transfer of vehicle and the vehicle in question, which was registered in the office of District Transport Officer, Jhunjhunu, was transferred in the name of respondent No.2 by DTO, Nagour on 13th October, 2000. It has also been observed that the balance of instalment was paid by respondents and receipt thereof of the Finance Company was placed on record.

So far as the present petitioner is concerned, there was an alleged agreement and he obtained a duplicate registration certificate from Jhunjhunu, obviously there could not be entry of transfer of the vehicle since it was

transferred in the office of DTO, Nagour on 13th October, 2000 in favour of respondent No.2. It was also observed that Form No.29 & 30 was sent to the hand writing expert and the opinion was expressed that the thump impression and signatures are of Shri Govind Ram, who was registered owner.

Counsel for respondents has brought to the notice of this court that pending investigation, it was sent to the Forensic Science Laboratory, Jodhpur and opinion has been expressed that the signatures on the Form No.29 & 30, which was seriously disputed by petitioner, are of registered owner i.e. Shri Govind Ram that certainly strengthens the case of respondents and vehicle has been legally transferred by registered owner of the vehicle Shri Govind Ram in favour of respondent No.2 to whom delivery of possession was handed over by learned trial Judge while disposing of application filed u/s.457 Cr.P.C.

I have heard counsel for parties and perused the order impugned.

This court has gone through the finding recorded under order impugned which is duly supported by material on record and does not call for interference.

Consequently, the misc. petition fails and is hereby dismissed, along with Stay Petition No.818/2000. Record be sent back to trial court forthwith.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.